

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	Musach, Mistry et al
Application No.:	09/892048
Filed:	June 26, 2001
For:	BALLOON WITH RADIOACTIVE MARKERS FOR STENT DELIVERY SYSTEM
Examiner:	K. Thompson
Group Art Unit:	3763

Commissioner for Patents
Washington, D.C. 20231

Docket No.: S63.2-9764

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TO: Examiner K. Thompson

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Following please find a 2 page Request for Reconsideration..

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Respectfully Submitted,

VIDAS, ARRETT & STEINKRAUS, P.A.

Date: March 26, 2003

By: Richard A. Arrett
Reg. No. 33,153

FAX RECEIVED

6109 Blue Circle Drive, Suite 2000
Mnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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Julie Emerson

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Musach, Mistry and Sarge
Application No.:	09/892048
Filed:	June 26, 2001
For:	Balloon With Radiopaque Markers for Stent Delivery System
Examiner:	Kathryn L. Thompson
Group Art Unit:	3763

Commissioner for Patents
Washington, D.C. 20231

Docket No.: S63.2B-9764-US

Request For Reconsideration

This letter is in response to the final office action mailed January 29, 2003.

The Examiner indicated on page 4 of the latest office action that applicant does not disclose in the specification or the claims that the balloon is made from a radiopaque material.

Applicant does not believe that this is correct. On page 4, lines 22-23 applicant states "Although radiopaque ink is preferred, radiopaque metal powder could be used when molding the balloon to create radiopaque regions". Anybody of ordinary skill in the relevant art would understand that a balloon molded with radiopaque metal powder in certain regions could be made as a balloon with radiopaque regions comprised of the balloon material itself. Therefore, applicant's claim 1, which requires that the balloon be made of a material which includes at least one radiopaque portion, is fully supported by the specification as filed.

Claim 1 does distinguish over Fischell because the balloon in Fischell is not radiopaque – rather the separate marker bands or tubes which fit around the balloon may be radiopaque. The marker bands of Fischell are not the balloon, but instead are arranged coaxially around the balloon. See for example tubes 14P' and 14D' in Figure 4. The elastic tubes referred

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to at Col.2 lines 41-47 are not the balloon, but instead are elastic marker bands, such as shown in Figure 4. A disclosure of using metal powder to make an elastic tube radiopaque, which is then arranged around a balloon, does not anticipate a claim which requires that the balloon material itself be made so portions of the balloon material are itself radiopaque.

Applicant respectfully requests that the Examiner reconsider the §102(b) rejection based on Fischell US 5792144 and withdraw this rejection in view of the preceding arguments and explanation.

Similarly Applicant respectfully requests that the Examiner reconsider the §103 rejection based on Fischell in view of Cioanta. Given the above discussion regarding Fischell, combining the teachings of these two references would result in elastic tubes coated with radiopaque ink, then arranged around the balloon – not in portions of the balloon material itself being radiopaque.

Claims 1, 3-5 and 7 are believed to be in condition for allowance.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: March 26, 2003

By: 

Richard A. Arrett

Registration No.: 33153

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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